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07-07-01 10:13:44

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS

IN RE:

§

ROBERT EDWIN JACOBSEN

§

§

§

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§

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Debtor

§

Case No. 07-41092

Chapter 7

*Hearing May 4, 2009 10:00 AM*

**MOTION TO REQUIRE CHAPTER 7 TRUSTEE  
TO ABANDON REAL PROPERTY**

**NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT, AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH RESPONSE. IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. THE COURT RESERVES THE RIGHT TO SET A HEARING IN ANY MATTER.**

TO THE HONORABLE JUDGE BRENDA T. RHOADES,  
U.S. BANKRUPTCY JUDGE:

COMES NOW ROBERT EDWIN JACOBSEN, Debtor in the above-captioned bankruptcy case (the "Debtor"), files this Emergency Motion to Require the Trustee to Abandon Real Property located at 2324 Tice Valley Blvd, Walnut Creek, CA ("PROPERTY") and in support of same would show the Court as follows:

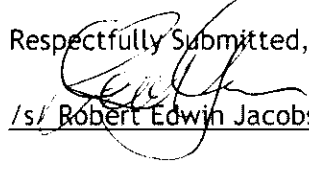
1. The court has jurisdiction over this Motion pursuant to 11 U.S.C. Sections 1224 and 157.
2. The PROPERTY was purchased in 1999 by Debtor's wife, Alise Malkiyar ("MALIKYAR").
3. It was assumed to be separate property from the estate of Debtor.
4. 3/13/08 Debtor filed Amended Schedules showing no homestead for himself.  
MALIKYAR does not show the PROPERTY as homestead because she is not in bankruptcy.
5. 11/03/08 Agreed that their property would be community rather than go to trial on the 07-04134 Adversary.
6. MALIKYAR never rented the house out during her ownership right up to the expected sale May 07. MALIKYAR used a Texas address while she was out of the country, but never claimed a Texas house as a homestead. The PROPERTY was the only homestead she has had up to the May 07 when it was to be sold and the proceeds to go to her next homesteaded house.
7. April 27, 2007 Mr. and Mrs. Sramek, now plaintiffs in adversary 08-04048 in this bankruptcy, filed a lis-pendence on the PROPERTY stopping the sale which was scheduled to close in 2 business days. The lis-pendence was later expunged by Judge Flinn in the associated State court action, but the damage had already been done. Debtor was to receive \$38,700 from the sale as a commission, which would have paid for attorney's fees to continue to defend the Sramek v REJ lawsuit. When that money was stopped by the lis-pendence, Debtor was forced to file chapter 13 to stop the State legal action which he now didn't have money to defend.
8. The PROPERTY is the homestead of MALIKYAR. See **Exhibit A**, tax bill showing homestead. California CCP 704.730 (a)(3)(C) shows the amount of the homestead to be \$150,000.

9. California CCP 704.850 states the order of payoff of debts. Secured debts are first, homestead next, everybody else after that. CCP 704.710 (c) allows a homestead to stay active for 6 months after the sale of the homestead. MALIKYAR intended to sell the PROPERTY in May 2007, but was stopped first by the lis-pendence then the bankruptcy court. The time period is tolled.
10. 11 USC § 522 states that homestead property is exempt from sale by the court. MALIKYAR meets all requirements of this section. It has been her domicile since 1999 and so it easily complies with time requirements.
11. At present the Trustee has the PROPERTY listed for sale \$1,050,000. The 2 remaining loans are:  
Greenpoint \$742,000 and Wells Fargo \$260,000. After a 6% commission is paid of \$60,000+ there isn't any money left for the estate. The amounts cited above are estimates. In addition, the above figures don't take into account approximately \$20,000 in back taxes and seller required payment for pest work described by Mr. Davis, past buyer. THERE IS NO EQUITY.
12. MALIKYAR and Debtor want to keep the house and are planning to move back into the house.

WHEREFORE PREMISES CONSIDERED Debtor prays the Court grant this motion to abandon the PROPERTY and further to pay back to Debtor and MALIKYAR the money collected in rent payments during this bankruptcy. The payments were current when the Trustee took over the property.

DATE: March 30, 2009

Respectfully Submitted,

  
/s/ Robert Edwin Jacobsen

Robert Edwin Jacobsen, Debtor/Defendant  
P.O. Box 1386  
Lafayette, CA 94549

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **MOTION TO REQUIRE CHAPTER 7 TRUSTEE TO ABANDON REAL PROPERTY** has been served on all parties listed below via United States First Class Mail, postage prepaid as required by law.

Christopher Moser  
2001 Bryan Street, Suite 1800  
Dallas, TX 75201

Larry Levick  
16200 Addison Road, Suite 140  
Addison, TX 75001

Harold M. Jaffe  
3521 Grand Ave  
Oakland, CA 94610

John Sramek  
3521 Grand Ave  
Oakland, CA 94610

Bernadette Sramek  
3521 Grand Ave  
Oakland, CA 94610

John P. Lewis  
1412 Main Street, Suite 210  
Dallas, TX 75202

Gabrielle A. Hamm  
16200 Addison Road, Suite 140  
Addison, TX 75001

Marcus Salitore  
Office of the United States Trustee  
110 N. College Ave, Room 300  
Dallas, TX 75702

Alise Malikyar  
P.O. Box 1386  
Lafayette, CA 94549

  
Osman Malikyar

3/30/09  
date



**WILLIAM J. POLLACEK**

CONTRA COSTA COUNTY TREASURER-TAX COLLECTOR  
ROOM 100, 625 COURT STREET, MARTINEZ, CA 94553  
TOLL FREE TELEPHONE: (877) 957-5280 FAX: (925) 957-2898

**07-2008**

FISCAL YEAR 2007-08 (JULY 1, 2007 TO JUNE 30, 2008)

**SECURED PROPERTY TAX BILL  
DELINQUENT BILL****PROPERTY ADDRESS****2324 TICE VALLEY BLVD WALCR****ASSEESSEE AS OF JANUARY 1, 2007****MALIKYAR ALISE****MAILING ADDRESS**

**SEC0708 188-112-009-9 00 DEL**  
**MALIKYAR ALISE**  
**2324 TICE VALLEY BLVD**  
**WALNUT CREEK CA 94595**

**ASSESSMENT INFORMATION**

LAND 516,232  
IMPROVEMENTS 298,267  
PERSONAL PROP  
GROSS VALUE 814,499  
EXEMPTIONS  
HOMEOWNERS 7,000  
NET VALUE 807,499

**SPECIAL MESSAGES**

FOR RO SAN RAMON

PARCEL NUMBER	BILL NUMBER	CORTAC AGENCY	TAX RATE AREA	ISSUE DATE	TYPE
188-112-009-9 00	07 187240 2		98002	04/17/2008	DELINQUENT

SPECIAL TAXES & ASSESSMENTS				AD VALOREM TAXES & ASSESSMENTS		
DESCRIPTION	CODE	INFORMATION	AMOUNT	DESCRIPTION	RATE	AMOUNT
CC-FED STRMWRK FEE	DB	(925) 313-2279	51.00	1% COUNTYWIDE TAX	1.0000	8,074.98
MOSQUITO & VECTOR	DV	(800) 964-4274	4.74	ADD:		
EMERGENCY MED B	DY	(925) 846-4690	10.00	BART	.0076	61.36
CCCSO SEWER CHG	GE	(925) 228-7115	300.00	EAST BAY REG PK BD	.0080	64.60
WC SCHOOL PRCL TAX	HO	(800) 273-5167	82.00	ACALANES BOND 97	.0088	79.14
ACALANES PCL TX	JF	(925) 280-3908	189.00	ACALANES BOND 88	.0115	92.86
EASTBAY TRAILS LLD	KA	(800) 273-5167	5.44	ACALANES BOND 2002	.0046	37.15
				WLNT CREEK BOND 95	.0119	96.09
				WC ELEM BOND 2002	.0103	83.17
				COMM COLL 2002 BND	.0038	30.69
				COMM COLL 2006 BND	.0070	56.52
				TOTAL AD VALOREM TAXES	1.0745	8,676.56
				ADD: SPECIAL TAXES & ASSESSMENTS		642.18
				DELINQUENT PENALTY		931.86
				DELINQUENT COST		20.00
				LESS: PAYMENTS RECEIVED		0.00
<b>TOTAL SPECIAL TAXES &amp; ASSESSMENTS</b>				<b>TOTAL AMOUNT DUE</b>		<b>10,270.60</b>

RETAIN THE TOP HALF OF THE BILL FOR YOUR RECORDS. TO ENSURE PROPER POSTING OF PAYMENT PLEASE DO NOT FOLD, STAPLE, TAPE OR WRITE ON COUPONS.

PARCEL NUMBER	BILL NUMBER	CORTAC AGENCY	TAX RATE AREA	ISSUE DATE	TYPE
188-112-009-9 00	07 187240 2		98002	04/17/2008	DELINQUENT

<b>2ND</b> INSTALLMENT	CHECK THIS BOX IF REQUESTING CHANGE OF MAILING ADDRESS OR PRIMARY RESIDENCE ON THE BACKSIDE OF THIS COUPON.	<b>CHECK HERE</b>

**2007-2008****SECURED PROPERTY TAXES**  
THIS STUB MUST ACCOMPANY PAYMENT

<b>ORIGINALLY DUE BY</b> FEB. 1, 2008	<b>ADDITIONAL PENALTIES</b> CHARGED IF NOT PAID BY JUNE 30, 2008
<b>DELINQUENT SINCE</b> 04/11/2008	<b>\$5,145.30</b> (INCLUDES 10% PLUS \$20 COST)
<b>YOU CAN PAY YOUR TAXES ON LINE--24/7</b> TO PAY BY PHONE, CALL 1-877-957-5280 TO PAY BY INTERNET, GO TO <a href="http://WWW.CCTAX.US">WWW.CCTAX.US</a>	

MAKE CHECK PAYABLE TO:

**CONTRA COSTA COUNTY TAX COLLECTOR**  
P.O. BOX 7002  
SAN FRANCISCO, CA. 94120-7002



118811200992007187240200000465937120080410200005145305

TO ENSURE PROPER POSTING AND CREDIT OF PAYMENT, PLEASE DO NOT FOLD, STAPLE, TAPE OR WRITE ON THIS COUPON EXCEPT IN THE CHANGE OF ADDRESS BOX.

PARCEL NUMBER	BILL NUMBER	CORTAC AGENCY	TAX RATE AREA	ISSUE DATE	TYPE
188-112-009-9 00	07 187240 1		98002	04/17/2008	DELINQUENT

<b>1ST</b> INSTALLMENT	CHECK THIS BOX IF REQUESTING CHANGE OF MAILING ADDRESS OR PRIMARY RESIDENCE ON THE BACKSIDE OF THIS COUPON.	<b>CHECK HERE</b>

**2007-2008****SECURED PROPERTY TAXES**  
THIS STUB MUST ACCOMPANY PAYMENT

<b>ORIGINALLY DUE BY</b> NOV. 1, 2007	<b>ADDITIONAL PENALTIES</b> CHARGED IF NOT PAID BY JUNE 30, 2008
<b>DELINQUENT SINCE</b> 12/11/2007	<b>\$5,125.30</b> (INCLUDES 10% PENALTY)
<b>TO PAY FULL TAX</b> BY JUNE 30, 2008	<b>10,270.60</b> RETURN BOTH STUBS FOR FULL PAYMENT

MAKE CHECK PAYABLE TO:

**CONTRA COSTA COUNTY TAX COLLECTOR**  
P.O. BOX 7002  
SAN FRANCISCO, CA. 94120-7002



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